

APPENDIX B

memorandum

Date: September 18, 2007
To: File
From: Sarah C. Carranceja
File: S61:36912
Subject: Status of application

I spoke with Examiner Neuder (September 18, 2007 @8:47 a.m.) regarding the status of the above-referenced case. He stated that he was advised by the Special Program Examiners Department ("SPRE") (Steven Meyers) to abandon the case because the statutory period to respond from the last Office action had already expired. Examiner Neuder disagreed with SPRE. The facts are as follows:

1. Examiner Neuder tried to allow this case several times, the last of which was in April 2007.
2. We filed the Notice of Appeal on September 7, 2006, and the USPTO received it on September 11, 2006.
3. The SPRE had possession of the file since April 2007.
4. SPRE returned the file to the Examiner on 07/29/07 (the Examiner probably received the file 10 days later), well before the statutory period to respond (September 11, 2007).

Examiner Meyers of SPRE is out on vacation this week, but will be back next week. Examiner Neuder requested that we contact him on Tuesday, September 25, 2007 so that he has the opportunity to discuss this case further with Examiner Meyers. If Examiner Neuder is unsuccessful in persuading Examiner Meyers from withdrawing the suggestion to abandon the case, we will have no other alternative but to file a Petition to Revive the application. However, we should note on the Petition that we should not be charged for filing the Petition because the abandonment was unwarranted and due to Office error.

CM/scc